

EXHIBIT “L”

ARBITRATION Vol. VI
ANDRIESZ V. BCG FINANCIAL

January 17, 2024
1496-1499

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| <p style="text-align: right;">Page 1496</p> <p>1 Direct - Pomponi</p> <p>2 Simon's wife was there to support him. And also to</p> <p>3 make sure that he was able and safe enough, or felt</p> <p>4 well enough to go back home, to leave my therapy</p> <p>5 room.</p> <p>6 Q. All right. Going back to the sort of</p> <p>7 the intake, if we could, Ms. Pomponi.</p> <p>8 Did -- do you attempt to ascertain what</p> <p>9 medications, if any, a new client is on?</p> <p>10 A. I usually ask whether they are on</p> <p>11 medication, but the medical side of their wellbeing</p> <p>12 is outside my competence.</p> <p>13 So I would usually ask whether they are</p> <p>14 seeing a psychiatrist, whether they are taking</p> <p>15 medication, and also whether they are being</p> <p>16 supported from a medical point of view, but that is</p> <p>17 all I do. Because as I said, the medical side is</p> <p>18 outside my competence so I would not give any</p> <p>19 advice or suggest any medication or any such thing.</p> <p>20 Q. During the initial period from October</p> <p>21 of 2017 through 2019, how frequently did you see</p> <p>22 Simon?</p> <p>23 A. More or less weekly, unless he was away</p> <p>24 for like business or for family reasons.</p> <p>25 Q. And how long would each of your sessions</p> | <p style="text-align: right;">Page 1498</p> <p>1 Direct - Pomponi</p> <p>2 A. Yes, I can. Yes, I can.</p> <p>3 Q. All right. Did you write this note, To</p> <p>4 whom it may concern?</p> <p>5 A. Yes. I wrote this in -- I think back</p> <p>6 in -- what was it, 2000? I can't remember exactly</p> <p>7 the date. 2018, sorry.</p> <p>8 Q. If you would look at the signature</p> <p>9 block.</p> <p>10 A. Yes, that's mine.</p> <p>11 Q. And it says, London. And there is a</p> <p>12 date after the signature block.</p> <p>13 A. Yes.</p> <p>14 Q. What's the significance, if any, does</p> <p>15 that date have?</p> <p>16 A. October 2018 was when I was asked by</p> <p>17 Mr. Andriesz to support him with this legal</p> <p>18 procedure and I was asked to write a report. Which</p> <p>19 I did.</p> <p>20 Q. And what you wrote in this report, was</p> <p>21 it an accurate summary, from your perspective, of</p> <p>22 your interactions with Mr. Andriesz up to that</p> <p>23 date?</p> <p>24 A. It is.</p> <p>25 Q. And if we could go to the top of the</p> |
| <p style="text-align: right;">Page 1497</p> <p>1 Direct - Pomponi</p> <p>2 with Simon last?</p> <p>3 A. My sessions are 50 minutes.</p> <p>4 Q. Did there come a time, Ms. Pomponi, when</p> <p>5 you wrote a summary of your interactions with</p> <p>6 Mr. Andriesz?</p> <p>7 A. I'm sorry, when I wrote a summary?</p> <p>8 Q. Wrote a summary of your interactions</p> <p>9 with Mr. Andriesz.</p> <p>10 A. At the end of the session what I do is I</p> <p>11 take just a short note for my own use. So I</p> <p>12 usually do a -- three or four sentences of what</p> <p>13 actually I got it -- from the -- gathered from the</p> <p>14 session, which is useful for me in order to then</p> <p>15 remember the narrative.</p> <p>16 So my notes are not medical notes which</p> <p>17 would be recorded in any sort of official way; they</p> <p>18 are notes specifically for myself to actually be</p> <p>19 able to follow the course of our sessions and the</p> <p>20 narrative.</p> <p>21 MR. BRICKMAN: Ethan, if you could put</p> <p>22 up Exhibit 406.</p> <p>23 Q. We are going to do a screen share.</p> <p>24 A. Okay.</p> <p>25 Q. Can you see that, Ms. Pomponi?</p> | <p style="text-align: right;">Page 1499</p> <p>1 Direct - Pomponi</p> <p>2 letter.</p> <p>3 A. Yes.</p> <p>4 Q. It says, "I have been Mr. Andriesz's</p> <p>5 psychotherapist since October 2017 when he moved</p> <p>6 from New York to London."</p> <p>7 That is an accurate timeline of when you</p> <p>8 first saw Mr. Andriesz?</p> <p>9 A. The October 17 is an accurate date,</p> <p>10 having psychotherapy relationship. In fact, it</p> <p>11 was -- the 20th of October was our very first</p> <p>12 session.</p> <p>13 Q. And your next sentence says,</p> <p>14 "Mr. Andriesz sought therapy in order to deal with</p> <p>15 symptoms of severe PTSD following a series of</p> <p>16 distressing events that resulted in his move to the</p> <p>17 UK."</p> <p>18 Did your observations of Mr. Andriesz</p> <p>19 confirm that he was -- confirm to you, at least,</p> <p>20 that he was suffering severe PTSD at the time you</p> <p>21 originally saw him?</p> <p>22 A. That's my opinion, yes.</p> <p>23 Q. And what do you base that opinion on?</p> <p>24 A. I base it on his narrative, because he</p> <p>25 was actually describing how he was feeling.</p> |

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| <p style="text-align: right;">Page 1500</p> <p>1 Direct - Pomponi</p> <p>2 High -- very, very high stress and anxiety.</p> <p>3 I also based my opinion on the</p> <p>4 observation of the physical presence in my office.</p> <p>5 How they actually present, and whether they are</p> <p>6 expressing emotions of stress, fear, depression.</p> <p>7 So it is both narrative and their</p> <p>8 presence.</p> <p>9 Q. Did Mr. Andriesz do or say anything to</p> <p>10 you during the first two years of your seeing him</p> <p>11 that caused you to reconsider that opinion or</p> <p>12 caused you to question whether he was suffering</p> <p>13 severe PTSD?</p> <p>14 A. Not at all. My opinion stayed exactly</p> <p>15 the same. In fact, as we went on with the</p> <p>16 sessions, I could notice, you know, definitely</p> <p>17 evidence of anxiety, fear, feeling physically ill.</p> <p>18 As I said, he had a panic attack or two</p> <p>19 in my presence. He was sometimes crying, sometimes</p> <p>20 feeling very, very sick. So that confirmed that</p> <p>21 the initial evidence was going on.</p> <p>22 Q. And again, the sentence we just read,</p> <p>23 "Following a series of distressing events that</p> <p>24 resulted in his move to the UK," did Mr. Andriesz</p> <p>25 explain to you the events that resulted in his move</p> | <p style="text-align: right;">Page 1502</p> <p>1 Direct - Pomponi</p> <p>2 company, is that a summary of what you just told</p> <p>3 the panel?</p> <p>4 A. I would say so, yes.</p> <p>5 Q. And the next paragraph, the one</p> <p>6 beginning, "The above events were highly traumatic</p> <p>7 and have provoked an ongoing degree of panic</p> <p>8 attacks, insomnia and extreme levels of anxiety and</p> <p>9 stress, often resulting in hospital assessments and</p> <p>10 admissions."</p> <p>11 Do you see that?</p> <p>12 A. Yes, I do see that and I can confirm</p> <p>13 that.</p> <p>14 Q. Did you ever review any of his hospital</p> <p>15 records or admissions or assessments?</p> <p>16 A. No, sir. I just listened to his</p> <p>17 narrative.</p> <p>18 Q. And did you witness extremely high</p> <p>19 levels of anxiety and stress and panic attacks in</p> <p>20 connection with your sessions with Mr. Andriesz?</p> <p>21 A. Yes, I did.</p> <p>22 Q. It goes on to say, "Mr. Andriesz was</p> <p>23 hospitalized for a further three times, just for</p> <p>24 heart-related issues."</p> <p>25 Where did you get that information?</p> |
| <p style="text-align: right;">Page 1501</p> <p>1 Direct - Pomponi</p> <p>2 back to the UK?</p> <p>3 A. Yes. Based on his narrative, I</p> <p>4 understood that he had noticed that there were</p> <p>5 problems in his -- fulfilling his duties in his</p> <p>6 work, where he felt he was asked to conduct illegal</p> <p>7 transactions, which he was not prepared to do.</p> <p>8 And so the stress and frustration, I</p> <p>9 think came from the fact that when he tried to</p> <p>10 discuss such transactions or sort of make them</p> <p>11 obvious to his superiors; he was not taken</p> <p>12 seriously, he was not considered. He probably felt</p> <p>13 that he was asked to just not discuss them.</p> <p>14 Basically his voice was not heard.</p> <p>15 Which caused him obviously very, very</p> <p>16 high stress because he -- it basically involved</p> <p>17 moral or ethical stance that he had to decide</p> <p>18 whether to act on or not.</p> <p>19 Q. Did he indicate to you that he felt that</p> <p>20 his employer had retaliated against him for moving</p> <p>21 forward with these complaints?</p> <p>22 A. Yes, indeed. Many times.</p> <p>23 Q. If we were to look at the next two</p> <p>24 paragraphs of your letter, one with working for</p> <p>25 Cantor Fitzgerald, and then realizing that his</p> | <p style="text-align: right;">Page 1503</p> <p>1 Direct - Pomponi</p> <p>2 A. Well, he told me he had suffered a heart</p> <p>3 attack at his desk, which in itself was quite a</p> <p>4 traumatic experience, and he lived in fear that he</p> <p>5 would have another heart attack and die. And he</p> <p>6 couldn't die because he was -- he had</p> <p>7 responsibility for looking after his son, his</p> <p>8 ex-wife and his present wife.</p> <p>9 So they -- the heart attack he suffered,</p> <p>10 in itself, was one of the traumas that he</p> <p>11 experienced during and after being dismissed in his</p> <p>12 job.</p> <p>13 Q. There is a sentence here that I would</p> <p>14 ask you to explain for the panel, Ms. Pomponi.</p> <p>15 It starts with "Added to the physical</p> <p>16 implications of this situation, there is also a</p> <p>17 strong sense of danger to personal safety and</p> <p>18 life-threatening preoccupations, which are most</p> <p>19 often present during narrative in psychotherapy."</p> <p>20 What are you referring to there?</p> <p>21 A. The threatening preoccupations are the</p> <p>22 feeling that he could die at any time.</p> <p>23 He could have another heart attack.</p> <p>24 Or his life was in danger because there</p> <p>25 could be retaliations.</p> |

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| <p style="text-align: right;">Page 1504</p> <p>1 Direct - Pomponi</p> <p>2 Or his life could be in danger in the</p> <p>3 sense that he would be out of work, not being able</p> <p>4 to provide, and have no money to actually survive.</p> <p>5 Q. The next paragraph begins, "We are</p> <p>6 undertaking trauma therapy biweekly sessions."</p> <p>7 Can you describe to the panel what that</p> <p>8 trauma therapy consisted of by Mr. Andriesz?</p> <p>9 A. Yes. We tried to implement a protocol</p> <p>10 which is attached to the EMDR trauma therapy that I</p> <p>11 was talking about earlier.</p> <p>12 However, I realized that in order to</p> <p>13 apply that type, that specific type of therapy, the</p> <p>14 trauma must be finished. It must be already</p> <p>15 something that has happened.</p> <p>16 In the case of Mr. Andriesz, the trauma</p> <p>17 was ongoing because he was going through a</p> <p>18 threatening situation where he was badmouthed and</p> <p>19 he felt he could not find -- hold a job. He felt</p> <p>20 that his physical health was constantly in danger.</p> <p>21 So the trauma was ongoing.</p> <p>22 And therefore we decided to -- or</p> <p>23 rather, I decided that talking therapy was at that</p> <p>24 point the best option. You cannot deal with the</p> <p>25 trauma which is ongoing. You can usually only deal</p> | <p style="text-align: right;">Page 1506</p> <p>1 Direct - Pomponi</p> <p>2 Q. And I just want to jump ahead and then</p> <p>3 we will come back to the letter.</p> <p>4 By 2019, during the first stretch of</p> <p>5 your seeing Mr. Andriesz, at the end of that period</p> <p>6 of time, did you feel that he was -- I'm sorry to</p> <p>7 use a layman's term -- cured, such that he was no</p> <p>8 longer suffering from PTSD?</p> <p>9 A. No. I think we stopped our sessions</p> <p>10 because he was -- I think he was going away and I</p> <p>11 think there were also financial issues. So I -- we</p> <p>12 didn't stop because we felt that he was, let's say,</p> <p>13 cured; we stopped because we needed to -- or he</p> <p>14 needed a break.</p> <p>15 But effectively then I didn't see him</p> <p>16 again until 2022 for just three sessions.</p> <p>17 Q. So at the end of 2019, describe for the</p> <p>18 panel what conditions, if any, you observed</p> <p>19 Mr. Andriesz to still be suffering from.</p> <p>20 A. He was still very, very concerned.</p> <p>21 He was following the legal case, or the</p> <p>22 preparation for his legal case, which obviously was</p> <p>23 ongoing and taking a long time. And at the time,</p> <p>24 he was also looking after his wife as well as his</p> <p>25 son, and trying to concentrate on his job.</p> |
| <p style="text-align: right;">Page 1505</p> <p>1 Direct - Pomponi</p> <p>2 with a trauma that is like an incident that has</p> <p>3 happened, and then that creates PTSD.</p> <p>4 But I felt that in the case of</p> <p>5 Mr. Andriesz, the trauma was actually ongoing. He</p> <p>6 was being traumatized by various situations that</p> <p>7 were happening there and then.</p> <p>8 So we went back to actually talking</p> <p>9 therapy, which seemed to be the best options at the</p> <p>10 time.</p> <p>11 Q. And you write in this same paragraph,</p> <p>12 "And although Mr. Andriesz is responding well to</p> <p>13 therapy, he is still often experiencing moments of</p> <p>14 intense worry akin to distress, intolerance where</p> <p>15 he can get overwhelming feelings, panic, and</p> <p>16 tearfulness."</p> <p>17 A. Yes. Yes.</p> <p>18 Q. "As well as physical pain and distress."</p> <p>19 Is that more specifically describing</p> <p>20 what you just detailed for the panel?</p> <p>21 A. Yes, indeed. I saw Mr. Andriesz cry</p> <p>22 during our sessions more than once. And also a lot</p> <p>23 of times feeling physically ill, because of the</p> <p>24 high anxiety that perhaps our narrative, or his</p> <p>25 narrative, was causing at the time.</p> | <p style="text-align: right;">Page 1507</p> <p>1 Direct - Pomponi</p> <p>2 And I think Mr. Andriesz is very</p> <p>3 resilient because he has a very strong sense of</p> <p>4 duty. So despite of the high anxiety and distress</p> <p>5 which was ongoing, I think he was determined that</p> <p>6 he would just carry on with his legal case and</p> <p>7 really put all his energy and focus into that. And</p> <p>8 in hoping that he would be able to win it. And to</p> <p>9 make the right decisions, and to be on the lawful</p> <p>10 side of all his situations.</p> <p>11 So I could see that he was strong on one</p> <p>12 side although still highly stressed.</p> <p>13 Q. At the time you ended your initial</p> <p>14 sessions with Mr. Andriesz, which is in 2019, were</p> <p>15 you still of the opinion that he was suffering from</p> <p>16 post traumatic stress disorder?</p> <p>17 A. Yes. In fact, we didn't end. It was</p> <p>18 more meant to be a suspension of our sessions with</p> <p>19 the idea of resuming at a later date.</p> <p>20 Q. Now the last paragraph of your letter</p> <p>21 says that, "One feature of PTSD is shown as an</p> <p>22 alteration of responses to life difficulties by</p> <p>23 reexperiencing the initial traumatic events in a</p> <p>24 highly distressful and overwhelming psychologically</p> <p>25 and physically debilitating way."</p> |

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| <p style="text-align: right;">Page 1508</p> <p>1 Direct - Pomponi</p> <p>2 Is that something that you observed with</p> <p>3 Mr. Andriesz?</p> <p>4 A. It is. Yes. It was still present.</p> <p>5 Q. Can you describe for the panel exactly</p> <p>6 what you are referring to in that sentence?</p> <p>7 A. In my opinion, there were two stresses</p> <p>8 at the time. One was the heart attack because he</p> <p>9 had symptoms -- when he had panic attack, a panic</p> <p>10 attack is very similar to a heart attack where you</p> <p>11 experience what you believe you are dying.</p> <p>12 Although, of course, nobody dies from a</p> <p>13 panic attack.</p> <p>14 But at the time when it happens, it's</p> <p>15 very similar to a heart attack and there is a</p> <p>16 belief that you are actually dying in that moment.</p> <p>17 So PTSD is basically reexperiencing</p> <p>18 something very traumatic, which is his heart attack</p> <p>19 at his desk. Although it isn't happening as such,</p> <p>20 but the experience is very, very similar, so much</p> <p>21 so that in that moment the person believes that</p> <p>22 they are actually dying. That is one.</p> <p>23 The other traumatic event is being</p> <p>24 dismissed and being discharged, and basically not</p> <p>25 being listened or taken into consideration. So</p> | <p style="text-align: right;">Page 1510</p> <p>1 Direct - Pomponi</p> <p>2 A. Indeed, yes.</p> <p>3 Q. Did you ever have discussions with</p> <p>4 Mr. Andriesz of whether the PTSD he was suffering</p> <p>5 now were at all attributable to those earlier</p> <p>6 childhood events?</p> <p>7 A. In my opinion, the PTSD were connected</p> <p>8 to recent events.</p> <p>9 However, you have to consider that what</p> <p>10 happens in childhood are part of who we develop</p> <p>11 when we become adults, so you can never disconnect</p> <p>12 some earlier experiences from who we are or who we</p> <p>13 have become during later years.</p> <p>14 So I think there was a connection</p> <p>15 between his childhood as had been possibly, if I</p> <p>16 can use that term, a neglected child. With the</p> <p>17 fact that at the time as a child, he was not -- not</p> <p>18 heard or considered, or perhaps looked after. So</p> <p>19 that was an experience that happened many, many</p> <p>20 years before.</p> <p>21 But what happens is then he suffered</p> <p>22 another trauma, which is, you know, the one most</p> <p>23 recent which somehow could be connected to the fact</p> <p>24 that again, he was basically not considered, he was</p> <p>25 not heard.</p> |
| <p style="text-align: right;">Page 1509</p> <p>1 Direct - Pomponi</p> <p>2 it's as if what he was trying to say -- or his</p> <p>3 ethical stance was totally denied. So he felt that</p> <p>4 he had no voice and he was not -- or his opinion of</p> <p>5 his stance or his values were of no importance</p> <p>6 whatsoever.</p> <p>7 Q. Just a few more questions if I could,</p> <p>8 Ms. Pomponi.</p> <p>9 If you were to look at the second, third</p> <p>10 and fourth pages of what has been marked as</p> <p>11 Exhibit 406, I just want to understand.</p> <p>12 Is that your -- essentially your</p> <p>13 curriculum vitae?</p> <p>14 A. You are showing my CV?</p> <p>15 Q. I am asking you: Is that what it is?</p> <p>16 A. Yes, it is. It's my history.</p> <p>17 Q. Including your voluntary work, your</p> <p>18 honorary post, your training, your achievements and</p> <p>19 your languages?</p> <p>20 A. That is -- that is all -- it's all</p> <p>21 correct.</p> <p>22 Q. Ms. Pomponi, when you first met Simon</p> <p>23 and sort of took his history, he discussed some</p> <p>24 traumatic events he had experienced as a child,</p> <p>25 correct?</p> | <p style="text-align: right;">Page 1511</p> <p>1 Direct - Pomponi</p> <p>2 So what happens when you are traumatized</p> <p>3 in adult life is that it's as if you are opening a</p> <p>4 box and something from your past comes back because</p> <p>5 your past is still within us, it never goes away.</p> <p>6 And obviously, it will influence the way we react</p> <p>7 to the present times and what happens to us now.</p> <p>8 So in the case of Mr. Andriesz, I think</p> <p>9 his childhood and whatever happened when he was a</p> <p>10 child made him the person that he was as an adult.</p> <p>11 And I think it's the way that he developed his</p> <p>12 moral values, and his sense of having to be on the</p> <p>13 right side, and to do the right thing, and to want</p> <p>14 to put things right when they were wrong. This is</p> <p>15 how he developed.</p> <p>16 We all develop ourselves based on how we</p> <p>17 grow up, the kind of education, the family life</p> <p>18 that we have.</p> <p>19 So I simply would not say that he was</p> <p>20 suffering with the initial trauma, not at all. The</p> <p>21 initial trauma is what made him act the way he</p> <p>22 acted in his work environment because he had grown</p> <p>23 as a person with a very, very strong sense of right</p> <p>24 and wrong, lawful and unlawful, and with a very</p> <p>25 determined attitude of wanting to be right and</p> |

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| <p style="text-align: right;">Page 1512</p> <p>1 Cross - Pomponi</p> <p>2 wanting to do the right thing.</p> <p>3 And I think this is what informed his</p> <p>4 decision to actually become a whistle-blower,</p> <p>5 because that was his ethical stance.</p> <p>6 I don't know if I made myself clear.</p> <p>7 So it was not the initial trauma that</p> <p>8 was causing his PTSD; it was his trauma as an</p> <p>9 adult. And as an adult, he developed in such a way</p> <p>10 because of the childhood he had of, you know, his</p> <p>11 history of growing up.</p> <p>12 Does that make any sense?</p> <p>13 Q. To me. If the panel has questions, they</p> <p>14 get to ask you as well, Ms. Pomponi.</p> <p>15 MR. BRICKMAN: I have no further</p> <p>16 questions at this time.</p> <p>17 ARBITRATOR KHEEL: Thank you,</p> <p>18 Mr. Brickman.</p> <p>19 Ms. Cardenas, will you be doing the</p> <p>20 honors today?</p> <p>21 MS. CARDENAS: Yes.</p> <p>22 ARBITRATOR KHEEL: Please, you may</p> <p>23 proceed.</p> <p>24 CROSS-EXAMINATION</p> <p>25 BY MS. CARDENAS:</p> | <p style="text-align: right;">Page 1514</p> <p>1 Cross - Pomponi</p> <p>2 MS. CARDENAS: That's correct.</p> <p>3 You are going to provide them to the</p> <p>4 counsel?</p> <p>5 MR. LEONARD: I will give copies to the</p> <p>6 panel.</p> <p>7 MR. BRICKMAN: We weren't planning to</p> <p>8 introduce them.</p> <p>9 MR. LEONARD: You guys have access to</p> <p>10 them.</p> <p>11 ARBITRATOR KHEEL: There is no rush on</p> <p>12 it.</p> <p>13 MS. CARDENAS: Yes. For the sake of</p> <p>14 completeness, I would like the panel to have</p> <p>15 them.</p> <p>16 Q. And I want to confirm that you did take</p> <p>17 notes during those sessions in 2022?</p> <p>18 A. Yes.</p> <p>19 Q. And you took notes of all your sessions,</p> <p>20 right?</p> <p>21 A. I take notes for my own benefit, yes, as</p> <p>22 I explained before.</p> <p>23 MS. CARDENAS: Okay. And the notes, I</p> <p>24 will give the panel a second to look at them.</p> <p>25 MR. BRICKMAN: Can we just make them</p> |
| <p style="text-align: right;">Page 1513</p> <p>1 Cross - Pomponi</p> <p>2 Q. Good morning, Ms. Pomponi. My name is</p> <p>3 Virginia Cardenas. I am counsel for the</p> <p>4 respondents.</p> <p>5 A. Good morning.</p> <p>6 Q. Thanks for taking the time today.</p> <p>7 I just have some questions about your</p> <p>8 testimony. I just want to get the timeline</p> <p>9 straight first.</p> <p>10 So you began seeing Mr. Andriesz in</p> <p>11 October 2017, correct?</p> <p>12 A. Indeed, yes.</p> <p>13 Q. And when did you stop seeing</p> <p>14 Mr. Andriesz, if at all?</p> <p>15 A. We stopped in September '19, but I saw</p> <p>16 Mr. Andriesz again in 2022 for three sessions.</p> <p>17 Q. And I believe the notes of the 2022</p> <p>18 sessions, your counsel, Mr. Leonard, just handed to</p> <p>19 me.</p> <p>20 MS. CARDENAS: Is that accurate,</p> <p>21 Mr. Leonard?</p> <p>22 MR. LEONARD: We provided, yes.</p> <p>23 Q. So I have your notes now.</p> <p>24 ARBITRATOR KHEEL: Can I just interject?</p> <p>25 Are these new notes that we don't have?</p> | <p style="text-align: right;">Page 1515</p> <p>1 Cross - Pomponi</p> <p>2 part of her other notes?</p> <p>3 MS. CARDENAS: Yes. So 412 is the set</p> <p>4 of her notes that we did have produced. And</p> <p>5 so we will just go ahead and add these to 412.</p> <p>6 Q. So I am going to share my screen,</p> <p>7 Ms. Pomponi, so that you see what I am looking at</p> <p>8 here.</p> <p>9 MR. BRICKMAN: 412?</p> <p>10 MS. CARDENAS: 412, yes.</p> <p>11 Q. So Ms. Pomponi, this is a long, long</p> <p>12 document. It's 49 pages and I am happy to scroll</p> <p>13 whenever you like, but can you just confirm for me</p> <p>14 this is the format of the notes that you took</p> <p>15 during your sessions with Mr. Andriesz?</p> <p>16 A. Yes, this is it, yes.</p> <p>17 Q. So -- and they are written in first</p> <p>18 person. So did Mr. Andriesz write any of these or</p> <p>19 are these written by you?</p> <p>20 A. No, these are my notes. And I write</p> <p>21 them in first person because it's useful for me to</p> <p>22 remember sentences or words or statements that</p> <p>23 would allow me to carry on with the narrative</p> <p>24 between one session and the next. So these are not</p> <p>25 exactly words that my client would have used; this</p> |

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| <p style="text-align: right;">Page 1520</p> <p>1 Cross - Pomponi</p> <p>2 You testified with Mr. Brickman that</p> <p>3 you, in the course of your treating Mr. Andriesz,</p> <p>4 confirmed that he was suffering from PTSD; is that</p> <p>5 correct?</p> <p>6 A. Yes.</p> <p>7 Q. Are you offering any opinion as to the</p> <p>8 cause of that PTSD?</p> <p>9 A. The cause of the PTSD as far as I -- and</p> <p>10 this is my opinion, my professional opinion -- the</p> <p>11 cause of the PTSD was due to what was going on</p> <p>12 at -- in that moment in his life.</p> <p>13 Being dismissed, a legal case, being</p> <p>14 bad-mouthed, not -- not -- being worried about</p> <p>15 being able to have a job and provide for his</p> <p>16 family. And also the intense emotions and anxiety</p> <p>17 that I witnessed in the therapy room when he was</p> <p>18 with me.</p> <p>19 Q. And you -- and this was -- these were</p> <p>20 observations you made between October 2017 and</p> <p>21 September 2019, correct?</p> <p>22 A. Yes.</p> <p>23 Q. Over the course of your treatment of</p> <p>24 Mr. Andriesz, you had some concerns about his level</p> <p>25 of anxiety, right?</p> | <p style="text-align: right;">Page 1522</p> <p>1 Cross - Pomponi</p> <p>2 A. Initiate the lawsuit?</p> <p>3 Q. Yes.</p> <p>4 A. Probably, but I couldn't confirm</p> <p>5 100 percent.</p> <p>6 Q. Did you ever advise Mr. Andriesz that</p> <p>7 the lawsuit was bad for his health? Bad for his</p> <p>8 mental health?</p> <p>9 A. No, I wouldn't give such advice because</p> <p>10 I have to respect what Mr. Andriesz decided was the</p> <p>11 right course of action. So just follow and you</p> <p>12 know, supporting his decisions.</p> <p>13 MS. CARDENAS: I have no further</p> <p>14 questions. Thank you very much, Ms. Pomponi.</p> <p>15 THE WITNESS: Thank you.</p> <p>16 MR. BRICKMAN: I have no questions.</p> <p>17 MR. ELKIND: No.</p> <p>18 MR. HARBISON: I don't.</p> <p>19 ARBITRATOR KHEEL: I have no questions</p> <p>20 either. We want to thank you very much for</p> <p>21 lending your expertise today, and we</p> <p>22 appreciate it.</p> <p>23 And we wish you good-bye, and you could</p> <p>24 sign off.</p> <p>25 THE WITNESS: You are very welcome. I</p> |
| <p style="text-align: right;">Page 1521</p> <p>1 Cross - Pomponi</p> <p>2 A. Yes.</p> <p>3 Q. Concerns about the level of his stress,</p> <p>4 right?</p> <p>5 A. Yes.</p> <p>6 Q. And you discussed the lawsuit with</p> <p>7 Mr. Andriesz, right?</p> <p>8 A. And I discussed what?</p> <p>9 Q. This lawsuit?</p> <p>10 A. Yes.</p> <p>11 Q. And you saw that that was contributing</p> <p>12 to his stress and anxiety, right?</p> <p>13 A. It -- the notes took a long time to</p> <p>14 prepare and there were ups and downs. And</p> <p>15 obviously, it's not an enjoyable experience for</p> <p>16 most people.</p> <p>17 I guess -- so I could witness the</p> <p>18 anxiety, the worry, the intense work of providing,</p> <p>19 I guess, all the information that he had to provide</p> <p>20 to his lawyers. And -- and also the not knowing</p> <p>21 when and if there would be a lawsuit. And I think</p> <p>22 the wait was very, very stressful. The wait went</p> <p>23 on for years, effectively until today.</p> <p>24 Q. Are you aware that Mr. Andriesz</p> <p>25 initiated the lawsuit?</p> | <p style="text-align: right;">Page 1523</p> <p>1 Direct - Aubin</p> <p>2 am glad if I could help in any way, so thank</p> <p>3 you very much for listening to me.</p> <p>4 And bye-bye, we will disconnect now.</p> <p>5 ARBITRATOR KHEEL: What's next?</p> <p>6 MR. BRICKMAN: Mr. -- well, I leave it</p> <p>7 to Mr. Shah. We can either begin with</p> <p>8 Mr. Aubin, or you can finish up with --</p> <p>9 MR. SHAH: I think we have Mr. Aubin</p> <p>10 here. You have been kind enough to take him.</p> <p>11 ARBITRATOR KHEEL: Yes, we will bring in</p> <p>12 a new witness. And he is live?</p> <p>13 MR. BRICKMAN: If we could just take a</p> <p>14 quick break because we have some physical</p> <p>15 readjustment to do.</p> <p>16 ARBITRATOR KHEEL: Off the record.</p> <p>17 (Discussion off the record.)</p> <p>18 (Recess taken.)</p> <p>19 ARBITRATOR KHEEL: We are back on the</p> <p>20 record. Mr. Brickman will begin examination</p> <p>21 of Mr. Aubin.</p> <p>22 Could the court reporter please swear</p> <p>23 him in.</p> <p>24 JEAN PIERRE AUBIN, called as a</p> <p>25 witness, having been duly sworn by a Notary Public,</p> |

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| <p style="text-align: right;">Page 1596</p> <p>1 Direct - Aubin</p> <p>2 expensive.</p> <p>3 So when we look for a license, it's</p> <p>4 something we think twice, even more times, because</p> <p>5 it's just for one person. But we did it for Elise</p> <p>6 Choukroun because I think she was living in</p> <p>7 Singapore at the time, to my recollection, and she</p> <p>8 wanted to be based then obviously in Singapore.</p> <p>9 But we couldn't offer her a job until we</p> <p>10 had the license, and obviously the license is not</p> <p>11 automatically approved. You have to get the</p> <p>12 capacity to absorb that new business. Hong Kong;</p> <p>13 we have the capacity because we have the listed</p> <p>14 products in Hong Kong. We never had listed</p> <p>15 products in Singapore.</p> <p>16 Q. So did you offer Elise the opportunity</p> <p>17 to work in Hong Kong while you obtained the</p> <p>18 Singapore license?</p> <p>19 A. Correct.</p> <p>20 Q. And in two months, which would bring us</p> <p>21 to April and May, did you obtain the Singapore</p> <p>22 license?</p> <p>23 A. No, but it was -- she declined to move</p> <p>24 to Hong Kong.</p> <p>25 Q. I understand. I am asking you a</p> | <p style="text-align: right;">Page 1598</p> <p>1 Direct - Aubin</p> <p>2 contract; I don't know.</p> <p>3 You know, the way it is, that that's the</p> <p>4 BGC -- the way we function.</p> <p>5 So the manager, like me, for example, we</p> <p>6 write on the contract.</p> <p>7 When it's signed by -- when in</p> <p>8 Singapore, the head of listed products and the head</p> <p>9 of the region, then it goes to HR.</p> <p>10 HR check with compliance.</p> <p>11 And if it works with our licensees in</p> <p>12 the country, they issue a contract.</p> <p>13 So it came from HR.</p> <p>14 Q. Did HR ever issue a contract in</p> <p>15 accordance with this CRF, the one that you and</p> <p>16 Mr. Webster signed?</p> <p>17 A. I don't know, sir. I don't remember, at</p> <p>18 least.</p> <p>19 Q. Do you know if whether or not</p> <p>20 Ms. Choukroun was offered a London contract?</p> <p>21 A. I don't remember.</p> <p>22 Q. Do you know?</p> <p>23 A. But again, if I may.</p> <p>24 To my recollection, again, she declined</p> <p>25 to go to Hong Kong, and she also declined to go to</p> |
| <p style="text-align: right;">Page 1597</p> <p>1 Direct - Aubin</p> <p>2 different question.</p> <p>3 MR. SHAH: You cannot interrupt the</p> <p>4 witness.</p> <p>5 Q. Mr. Aubin --</p> <p>6 MR. SHAH: Hold on.</p> <p>7 Was the witness finished with your</p> <p>8 answer, sir?</p> <p>9 A. Yes.</p> <p>10 Q. Mr. Aubin, when did BGC obtain the</p> <p>11 Singapore license?</p> <p>12 A. I think we still don't have that futures</p> <p>13 Singapore license.</p> <p>14 Q. One of the solutions to this was that</p> <p>15 Elise would work out of the London office, correct?</p> <p>16 A. Well, on a second step in order to find</p> <p>17 a solution to accommodate, I think we offered, yes,</p> <p>18 for her to work in London since she worked in</p> <p>19 London in the past and to commute.</p> <p>20 Obviously the commute from Singapore to</p> <p>21 London is not the best one, but that was the only</p> <p>22 thing we could offer.</p> <p>23 Q. And in connection with that offer, you</p> <p>24 tendered her a contract?</p> <p>25 A. I remember a CRF. Another CRF. A</p> | <p style="text-align: right;">Page 1599</p> <p>1 Direct - Aubin</p> <p>2 London. So I don't know if the contract was</p> <p>3 issued, but my recollection is she declined both.</p> <p>4 Q. Is it a normal procedure for -- in</p> <p>5 connection with a contract, for you to also issue a</p> <p>6 side letter?</p> <p>7 A. What do you mean by "side," if I may?</p> <p>8 Q. Side letter.</p> <p>9 A. About what?</p> <p>10 Q. About the terms of someone's employment.</p> <p>11 A. When we offer a contract, there is a</p> <p>12 terms of conditions.</p> <p>13 That's what you are talking about?</p> <p>14 Q. No, I am talking about a side letter.</p> <p>15 A. I don't know. Side letter could be</p> <p>16 everything.</p> <p>17 Q. Yes.</p> <p>18 A. What's in a side letter?</p> <p>19 Q. Well, turn to Exhibit 92.</p> <p>20 If you look at Ms. Choukroun --</p> <p>21 MR. SHAH: Why don't you give him a</p> <p>22 second?</p> <p>23 MR. BRICKMAN: I want to draw his</p> <p>24 attention to a particular, first.</p> <p>25 A. Which page?</p> |

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| <p style="text-align: right;">Page 1668</p> <p>1 Direct - Aubin</p> <p>2 A. Correct.</p> <p>3 Q. And he has actually -- you are asking</p> <p>4 him how it is incorrect?</p> <p>5 A. Correct.</p> <p>6 Q. And he says in his 1/6/19 e-mail to</p> <p>7 you -- are you there?</p> <p>8 A. Yes.</p> <p>9 Q. "That the paper rebate against client</p> <p>10 order and matched business, these need to be</p> <p>11 recorded correctly to show the correct revenue</p> <p>12 streams."</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. And he wonders if it could be a tax</p> <p>16 issue. Correct?</p> <p>17 A. Yes, he says it's an issue from a tax</p> <p>18 perspective.</p> <p>19 Q. "In addition, this will have an effect</p> <p>20 on the financial statement that we produced as it</p> <p>21 could be seen as revenue manipulation."</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. "I don't know the answer," he writes,</p> <p>25 "but I am flagging this procedure."</p> | <p style="text-align: right;">Page 1670</p> <p>1 Direct - Aubin</p> <p>2 by me and others. But he continues to ask the same</p> <p>3 question, and considers that it's tax issue or</p> <p>4 whatever when it's not.</p> <p>5 You know, it's part -- these points,</p> <p>6 it's part of his contract. It's black and white on</p> <p>7 his contract.</p> <p>8 Q. You then write, "We can have discussion,</p> <p>9 but it's about analytics treatment of the revenue,</p> <p>10 not accounting."</p> <p>11 A. Correct.</p> <p>12 Q. What is analytics treatment of the</p> <p>13 revenue?</p> <p>14 A. Well, if I can consider -- because</p> <p>15 obviously, as you mentioned previously, sir, you</p> <p>16 questioned me earlier today about: Are rebates or</p> <p>17 market makers are revenues? So yes, they are.</p> <p>18 So analytically, I can treat them as</p> <p>19 revenue.</p> <p>20 But accounting way; it's not part of</p> <p>21 Simon Andriesz's desk as per his contract. That's</p> <p>22 different between accounting. So in accounting</p> <p>23 way, it's not with Simon Andriesz, it is with</p> <p>24 others. As per his contract.</p> <p>25 But analytically way, when a manager you</p> |
| <p style="text-align: right;">Page 1669</p> <p>1 Direct - Aubin</p> <p>2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. Did you regard that e-mail to you as</p> <p>5 inappropriate?</p> <p>6 A. I view -- I am taking it as wrong.</p> <p>7 Q. Well, we just talked about conduct being</p> <p>8 inappropriate, unprofessional and insubordinate.</p> <p>9 Does this e-mail constitute, in your</p> <p>10 view, inappropriate or unprofessional conduct?</p> <p>11 A. Yes.</p> <p>12 Q. And does this e-mail -- do you consider</p> <p>13 this e-mail to be -- constitute insubordinate</p> <p>14 conduct?</p> <p>15 A. In some way, yes.</p> <p>16 Q. You then respond to it and say, "It is</p> <p>17 manipulation nor an issue re: tax, Simon. It has</p> <p>18 already been answered by Mike Sulfaro."</p> <p>19 When did Mr. Sulfaro answer this? What</p> <p>20 did Mr. Sulfaro answer?</p> <p>21 A. It's -- Mr. Sulfaro told him, that we</p> <p>22 all told him to -- that's why I consider it is an</p> <p>23 unprofessional and insubordination because</p> <p>24 Mr. Andriesz asked multiple times the same</p> <p>25 questions. He had multiple times the same answer</p> | <p style="text-align: right;">Page 1671</p> <p>1 Direct - Aubin</p> <p>2 look at a picture, you can consider a continuously</p> <p>3 different analytics.</p> <p>4 Q. If you look at the front page of this</p> <p>5 exhibit.</p> <p>6 You say, "Okay, this --"</p> <p>7 MR. SHAH: This is Simon talking.</p> <p>8 MR. BRICKMAN: Yes.</p> <p>9 MR. SHAH: You say, "You say."</p> <p>10 Q. Okay. Simon says, "Okay. That depends</p> <p>11 if Aldric is declaring a loss of 500 K U.S. dollars</p> <p>12 for 2015. If you are confident this okay, I will</p> <p>13 sign off."</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. Is that e-mail -- do you consider that</p> <p>17 e-mail to be inappropriate or unprofessional</p> <p>18 conduct?</p> <p>19 A. No.</p> <p>20 Q. Do you consider that e-mail to be</p> <p>21 conduct that is insubordinate?</p> <p>22 A. No.</p> <p>23 Q. Then you write back, "There is no loss</p> <p>24 of 500. Just spoke to Aldric. Please call me now.</p> <p>25 I am going to be in a meeting for the next hours."</p> |